

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF IOWA
3 WESTERN DIVISION
4 XCENTRIC VENTURES, LLC, an)
5 Arizona limited liability)
6 company; and ED MAGEDSON, an)
7 individual,) No. 15-CV-4008-LTS
8 Plaintiffs,)
9 vs.)
10 BEN SMITH, in his individual) DEPOSITION OF
11 capacity as Sac County)
12 Attorney,) BEN SMITH
13 Defendant.)
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16 THE DEPOSITION OF BEN SMITH, taken
17 before Stephanie J. Cousins, Registered
18 Professional Reporter and Notary Public,
19 commencing at 9:04 a.m., June 7, 2016, at
20 Stuart Tinley Law Firm, 310 West Kanesville
21 Boulevard, Second Floor, Council Bluffs, Iowa.

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Reported by: Stephanie J. Cousins, R.P.R.

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1 subpoenas?

2 A. I wouldn't say that he wrote
3 like -- he suggested language. And I don't
4 have the warrant in front of me, but my
5 recollection is -- and I think that I
6 identified that in discovery for you guys -- I
7 thought I had anyway, where did the information
8 come from.

9 Q. And did you do that from memory, or
10 did you do it just by looking at it and saying,
11 I think this came from here and this came from
12 there?

13 A. Is there a difference?

14 Q. Yeah. Because if you had the metadata
15 from the warrant, then, you would be able to
16 see who wrote what and when it was inserted and
17 things like that.

18 A. Sure. Uh-huh. I just -- I did it
19 from the best of my recollection.

20 Q. Okay. Let's talk about the documents
21 that you let people download. How many people
22 downloaded documents pertaining to the Ripoff
23 Report?

24 A. I think it was -- the best of my
25 recollection, it was just -- it was Brewington,

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1 Roberts, and possibly Scott Connelley.

2 Q. When did Brewington -- what period of
3 time would he have been downloading documents
4 over?

5 A. Just that once with the bank records.

6 That's my recollection. I don't -- I don't
7 believe it was anything more than just that one
8 time.

9 Q. Did you give him access to any
10 e-mails?

11 A. I don't recall giving him access to
12 e-mails.

13 Q. Do you remember the name Stick Bogart?

14 A. I remember the name Stick Bogart
15 barely.

16 Q. And do you remember reviewing any
17 e-mails between Stick and Ed Magedson
18 pertaining to Stick's domestic life, his wife?

19 A. I think I know what you're referring
20 to. I know what you're referring to. And
21 those e-mails were provided to me by John
22 Brewington -- No. I don't know who they were
23 provided by, but -- I don't recall. It wasn't
24 of any interest to me. I don't know anything.
25 I don't really remember anything about that,

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